

SUPPORT FOR THE AMENDMENTS

The present amendment amends claim 8 and the specification to recite a nitric acid solution having a nitric acid (HNO₃) concentration of 6-63 wt. %. Support for these amendments is provided by the originally filed application. It is believed that these amendments have not resulted in the introduction of new matter.

REMARKS

Claims 8 and 10-18 are currently pending in the present application. Claim 8 has been amended by the present amendment. Claims 14-18 stand withdrawn from consideration by the Examiner as being directed to a non-elected invention.

Applicants wish to extend their appreciation to Examiner Leong for withdrawing the rejections of: (1) claims 8-13 under 35 U.S.C. § 112, first paragraph (enablement); and (2) claims 8-13 under 35 U.S.C. § 112, second paragraph.

The rejection of claims 8 and 10-13 under 35 U.S.C. § 112, second paragraph, is respectfully traversed in part, and obviated by amendment in part, with respect to amended claim 8, which incorporates therein the limitation that the nitric acid solution has a nitric acid concentration of “6-63 wt. %.”

Claim 8 is considered to be indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as their invention with respect to the recited limitation of “a nitric acid solution having a nitric acid concentration of 6-63 %.”

“If the scope of the claimed subject matter can be determined by one having ordinary skill in the art, a rejection using this form paragraph would *not* be appropriate” (emphasis added; See MPEP § 706.03(d), Form Paragraph 7.34.01 Examiner Note).

Applicants submit that the phrase “a nitric acid solution having a nitric acid concentration of 6-63 %” is in fact definite to a skilled artisan, since organic chemists are reasonably apprised as to the meaning of this phrase. In the unlikely event that this is not the case however, a skilled artisan could readily determine the meaning of the claimed subject matter by referring to extrinsic evidence including, but not limited to, patent and/or scientific literature. See e.g., *Phillips v. AWH Corp.*, 75 USPQ2d 1321, 1326-1330 (Fed. Cir. 2005) (*en banc*).

For example, Coon (U.S. Patent 3,981,975), Barba (U.S. Patent 4,018,872), Selin (U.S. Patent 4,036,934), Stauffer (U.S. Patent 4,925,639), Allan (U.S. Patent 6,737,034) and Maurer (U.S. Patent 7,118,723), provide a plethora of examples demonstrating that a skilled artisan would immediately recognize that the ordinary and customary meaning of the phrase “a nitric acid solution having a nitric acid concentration of 6-63 %” is “a nitric acid solution having a nitric acid concentration of 6-63 *wt. %*,” as presently claimed and described in the present specification (See e.g., Coon at column 2, lines 19-21, 50-54 and 65-68, claims 2, 3, 5, 6 and 9; Barba at abstract, column 1, lines 5-20, column 3, lines 14-63, column 5, lines 26-28, column 6, lines 32-33, column 7, lines 7-9, column 9, lines 19-20 and 30-31; Selin at column 3, lines 40-43 and 48-50, column 5, lines 7-8, column 6, lines 4-6 and 58-59, column 7, lines 9-10 and 65-66, column 8, lines 1-3, column 9, lines 34-35 and 43-44, column 11, lines 13-14; Stauffer at column 4, lines 43-46, column 6, lines 20-25; Allan at column 1, lines 13-14, 28-30, 54-55 and 60-62; and Maurer at abstract, column 2, lines 1-17, column 3, line 44, column 4, lines 10-11, column 5, lines 55-56, column 7, lines 2-3).

As is clearly evidenced by the disclosures of the U.S. Patents referenced hereinabove, those of ordinary skill in art utilize the units of “%” and “wt. %” interchangeably when describing the concentration of nitric acid in a nitric acid solution.

Since the meaning of the claimed subject matter is likely already understood, or can at least be readily determined, by a skilled artisan, the claimed subject matter is considered to be definite and thus satisfies the requirements of 35 U.S.C. § 112, second paragraph.

Withdrawal of this ground of rejection is respectfully requested.

The objection of the specification is respectfully traversed in part, and obviated by amendment in part, for the same reasons discussed hereinabove. Withdrawal of this ground of objection is respectfully requested.

In conclusion, Applicants submit that the present application is now in condition for allowance and notification to this effect is earnestly solicited.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'David P. Stitzel', is written over a horizontal line.

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